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February 21, 2006

TO: Each Supervisor

FROM: Bruce A. Chernof, M.D.
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for Jonathan E. Fielding, M.D., M.P.H.
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SUBJECT: **ADDITIONAL INFORMATION AND OPTIONS FOR HIV/AIDS RESIDENTIAL HOSPICE AND SKILLED NURSING CONTRACTS**
**[Item #29, February 21, 2006]**

Board agenda item # 29 on February 21, 2006, recommends the approval of 89 HIV/AIDS service amendments and two new agreements for HIV/AIDS services. This is to provide you with additional information and options concerning the two proposed new agreements for HIV/AIDS residential hospice and skilled nursing facility services.

The Department's concern is that the AIDS Healthcare Foundation (AHF) may be reluctant to execute the new agreement, despite the fact that it has submitted a firm proposal with the rates as noted below. In 2005 the Department received Board-delegated authority to enter into an agreement with AHF, but AHF refused to sign the agreement once developed and insisted on renegotiation. Thus, patients eventually covered by the agreement were in the facility for months with services provided, while a contract with AHF was completed. The current agreement with AHF is scheduled to expire on February 28, 2006.

The recommendation before your Board is to delegate authority to the Acting Director of Health Services, or his designee to execute two agreements for HIV/AIDS residential hospice and skilled nursing facility services. One agreement, with the AIDS Healthcare Foundation (AHF) will be at the annual funding maximum of $553,800 and the second with Wells House Hospice Foundation, Inc., will be at the annual funding maximum of $226,200. Both agreements will have terms beginning March 1, 2006 and ending June 30, 2008. Reimbursement will be at $300 per day for residential hospice and $360 for skilled nursing services.

In conjunction with the above recommendation, your Board may also consider instructing the department to place on the green sheet agenda for February 28, 2006, a recommendation to approve a 3-month close-out extension amendment with AHF, in the event AHF has not executed the new agreement by 11:00 a.m. February 24. The close out amendment will be at the same bed day rate as the existing AHF agreement, for County patients in the facility as of February 28, 2006, until they are transferred or discharged, with no new County patients admitted after February 28, 2006.

**Recommendation**

The Department recommends that your Board approve the options above, including the instruction for the close-out amendment. Implementation of this recommendation will provide adequate residential hospice and skilled nursing services for County patients in two geographically distinct locations, SPAs 4 and 8. The recommendation is based on the results of the Office of AIDS Programs and Policy (OAPP) Request for Proposals (RFP) #2005-01, in which each of the two providers participated with proposals at the stipulated rates.

The reason for the additional contingent recommendation for a close out agreement with AHF, is that AHF has indicated in meetings with department staff that if it does not receive $1.2 million in the County contract, it will close Carl Bean. If it does close, it will need a 90-day period to transfer patients to alternate service providers and a close-out agreement will pay for County patients in the facility at the end of this month, until they can be transferred or discharged, to a maximum of 90 days.

If AHF chooses to close Carl Bean, we will act to provide sufficient beds for County patients by utilizing the agreement with Wells House and then seeking other providers in other geographic areas with which we could enter into interim sole source agreements for services, pending a re-solicitation process. We would specifically target those providers who responded to OAPP's Request for Information (described below) but did not submit proposals to the RFP.

The reason we should insist on a quick decision by AHF is that we do not want a repeat of the experience in 2005, where the Board gave delegated authority to the department to enter into an agreement with AHF, but then AHF refused to sign the agreement once developed and insisted on renegotiation. Thus, patients eventually covered by the agreement were in the facility for months until a contract with AHF was completed.

**Request for Proposals Process**

As part of a systematic re-solicitation of HIV/AIDS care services, the Office of AIDS Programs and Policy (OAPP) issued RFP #2204-06: Residential Services (including Adult Residential Facility, Residential Care for Chronically Ill, Congregate Living Health Facility/Hospice, Residential Emergency Services, and Transitional Housing). The rates for these services were based on a study completed by a consultant, Mercer Government Human Services Consulting (Mercer).

The RFP solicited proposals for 2,250 bed days in the Congregate Living Health Facility category at a rate of $72.96 per day. Within this category, the RFP stipulated that OAPP intended to purchase up to an additional 1,000 bed days of residential hospice services at the rate of $213.42 ($72.96 base CLHF rate plus $140.46 residential hospice supplement) per bed day. The Mercer report had calculated a rate for Congregate Living Health Facility at $414.26, but recommended that OAPP "consider discontinuing funding for CLHF services and provide Residential Hospice as an alternative service." Mercer recommended the Medi-Cal Hospice rate of $140.46 as the "standard rate for Residential Hospice services for patients not eligible for Medi-Cal." In further communication, Mercer confirmed that it

recommended that the CLHF services be discontinued and that the Medi-Cal hospice room and board rates be used for residential hospice.

Because of differences in interpretation of the Mercer recommendation for these services, as well as AHF's protest that the rates were not sufficient to cover the costs of these services, in September 2004, OAPP rescinded the RFP for the CLHF/hospice category, but proceeded with and completed the RFP for all other categories. One of the issues that AHF raised was that, while the Mercer recommendation was based on Medi-Cal rates for hospice and skilled nursing services, it did not consider the rates which other providers, such as physicians, pharmacies and laboratories, could bill directly to Medi-Cal for patients in Carl Bean, but which the facility had to cover for County patients.

In March 2005, analyses were conducted to determine these costs. Based on a thorough analysis of cost data provided by AHF, it was determined that the additional costs, for services not included in Medi-Cal's skilled nursing or hospice rate, but for which reimbursement was separately available were approximately $60 per day for hospice patients and $120 per day for skilled nursing patients.

In May 2005, OAPP issued a Request for Information (RFI) for the provision of residential hospice and skilled nursing services for persons with HIV/AIDS. By the May 26, 2005 deadline, OAPP received eleven responses from providers, including AHF, Wells House, several of the existing OAPP contractors in other service categories, and several skilled nursing facilities.

On August 8, 2005, OAPP released RFP 2005-01 for residential hospice and skilled nursing services. In this RFP, the Department indicated it intended to purchase 1,000 skilled nursing bed days at $360 per day and 100 residential hospice bed days at $300 per day, for a total allocation of $390,000, based on estimated available resources for these service categories. The rates were determined by taking Medi-Cal rates for these services and adding the additional service costs calculated above.

In an August 24, 2005 addendum, OAPP informed providers that the amount of funds to be awarded under this RFP could increase based on funding availability and that providers could indicate their willingness to provide more than $390,000 of services. By the September 2, 2005 deadline, OAPP received two proposals from AHF and two from Wells House (one for each service, skilled nursing and hospice). Wells House indicated that it was willing to provide $390,000 of services (100 days of hospice and 1000 days of skilled nursing) at the published rates and AHF requested $1,201,560 (374 days of hospice and 3026 days of skilled nursing).

The proposals were reviewed in accordance with the RFP and both providers were determined to be eligible contractors, with very similar evaluation scores.

To determine the amount of services to recommend for contracts, the Department reviewed the utilization data under the AHF contract as shown in the chart above.

Simple extrapolation of the first six months would indicate that a total of 1,116 bed days would be needed at an approximate cost of $401,760 per year. In recent months, not yet adjudicated, AHF has billed as much as $83,520 per month. This would result in an annual billing of $1,002,240 at the $360 rate. Thus, OAPP determined that a reasonable estimate of the need for beds for County patients was 2000 skilled nursing bed days and 200 hospice bed days. At the rates published in the RFP, this would cost $780,000. Although this exceeded the amount budgeted for these services, the Department recommended this in order to assure that county patients had hospice and skilled nursing options, particularly as an alternative to costly inpatient care.

The allocation of the recommended days and amounts between the two providers was done geographically, according to the percentage of the total persons living with AIDS in each SPA.

The recommendations from the RFP were released to the providers on January 13, 2006 and each was asked to submit documents to develop a contract. Wells House has submitted the requested documents, but AHF has not provided the needed documents. Instead, it requested a meeting, as described below.

**Background of the AHF Agreement**

The County has contracted with AHF for HIV/AIDS residential hospice services in its facilities for many years. At one time, AHF had developed three facilities, all licensed as Congregate Living Health Facilities (CLHF). Following the introduction of the new, more effective HIV medications in 1996, the reduction in the number of persons dying of AIDS, and the resulting reduced demand for residential hospice services, AHF consolidated all of its residential services into the Carl Bean facility, a 25-bed CLHF, located in the West Adams district of Service Planning Area 4. Over the years, the services provided to County patients in Carl Bean have shifted from predominantly hospice services to predominantly skilled nursing services, both services allowed within a CLHF.

For a number of years ending in February 2005, the residential agreement with AHF provided for reimbursement at $425 per day for both hospice and skilled nursing services, with an annual maximum obligation of $1,741,724. In 2005, the Board approved month-to-month extensions of this agreement, with the addition of pre-screening for medical and financial eligibility. AHF refused to sign this agreement and on August 30, 2005, the Board approved and AHF executed a retroactive agreement covering the entire period of March 1, 2005 through February 28, 2006, with a maximum obligation of $1,200,000 ($100,000 per month), based on patient census. Through the agreement, AHF is paid at an interim rate of $360 per day, with cost reconciliation at the end of the year based on reasonable costs, not to exceed $500 per bed day.

The table below shows AHF billings and County payments for services under the existing contract through October 2005.

| | Mar 05 | Apr 05 | May 05 | Jun 05 | Jul 05 | Aug 05 | **Six-Month Average** | Sep 05 | Oct 05 |
|---|---|---|---|---|---|---|---|---|---|
| Total Paid | $50,040 | $34,200 | $14,760 | $14,040 | $28,800 | $50,040 | **$31,980** | | |
| Total Billed | $115,920 | $65,160 | $32,760 | $36,360 | $69,840 | $75,600 | **$65,940** | $71,280 | $83,520 |
| Total Paid | 164 | 95 | 41 | 39 | 80 | 139 | **93** | | |
| Total Billed | 322 | 181 | 91 | 101 | 194 | 210 | **183** | 232 | 198 |

**The START Program**

AHF operates the START program at its Carl Bean facility. According to AHF, START patients are persons diagnosed with HIV (often newly diagnosed) who may have barriers to compliance with their HIV medications. Such barriers include substance abuse or mental health problems or homelessness. The START program admits these patients to Carl Bean for a residential stay, where they receive directly observed medication therapy, counseling, physical therapy and, if needed, skilled nursing care. The aim is to ensure compliance with sometimes complicated HIV medication regimens. Some of these START patients are admitted directly from an acute hospital stay.

According to AHF, a direct federal appropriation (ear-mark) was used to initiate this program, but AHF did not use its federal appropriation for this service in recent years, rather shifting it to fund outpatient care in other jurisdictions. AHF has presented data to indicate that its program does increase compliance, but the Department is unaware of comparative cost-effectiveness studies for this service.

Even though the aim of the program is clearly laudable, the County has never agreed that START patients are eligible County patients under the residential agreement with AHF, unless the patients have a medically demonstrated need for skilled nursing services and even then, County responsibility lasts only for as long as that need exists. Thus, the Department might agree that a patient being transferred from an acute care hospital needing convalescent skilled nursing services would meet the conditions for County eligibility for an initial period after admission to Carl Bean, but not for the entire duration of the longer START program.

The HIV Commission has never prioritized START services as part of its CARE services priorities.

One of the objectives of instituting pre-admission financial and medical screening in the 2005-06 agreement with AHF was to determine up-front whether patients had a demonstrated need for skilled nursing services.

**Audits and Fiscal Monitoring of AHF**

The Department's Central Contract Monitoring Division has conducted audits of the AHF residential contract for contract years 2002-03 and 2003-04. Preliminary findings are that AHF failed to reimburse the Department for the entire bed day rate for Medi-Cal pending clients for which the County paid and for whom Medi-Cal eventually approved eligibility and also paid AHF. County Counsel believes that the Medi-Cal reimbursement to AHF for services in the CLHF covers all the services included in the County contract, except volunteer services and therefore qualifies as payment in full for all of the care AHF provided. It further believes that the County contract is clear that full reimbursement of the entire amount the County paid for these individuals is required. These two audits are undergoing a final review by County Counsel and the CCMD to clarify the contract period to which the recoupment applies. The final exit conferences will be scheduled shortly.

In March 2005, the Board requested the Auditor-Controller conduct an audit of the AHF residential contract. The Auditor-Controller chose to audit the portion of the 2004-05 contract period, (through December 2004), for which data were available. The Auditor-Controller's findings were similar to the CCMD findings regarding reimbursements owed to the County by AHF.

**AHF's Request**

Departmental staff met with AHF several times after the RFP recommendations were released. AHF indicated that it needed to earn $1,200,000 from the County for Carl Bean, regardless of County patient census, in order to continue to operate the facility. The AHF Medical Director advocated for the START program. The amount of billings approved and paid to date under the 2004-05 contract was discussed and AHF indicated that it expected most of the Medi-Cal pending clients to be denied by the State, and thus County patients under the contract.

At the second meeting, AHF raised the topic of acuity levels for skilled nursing patients, stating that there were patients whose acuity levels were really "sub-acute," needing intravenous therapy, wound care, and physical therapy. AHF requested that these patients be separately defined and reimbursed at a $475 rate per day. AHF indicated that 22 percent of its patients are in this group. Departmental staff agreed to review this request, to determine if these higher acuity patients could be differentiated by clear criteria from other skilled nursing patients and if a higher rate was justified.

Since some of the key OAPP staff who needed to review this issue were not immediately available, departmental staff were not sure whether a more in-depth review might be needed to review the AHF's assertions about the levels of acuity among skilled nursing patients. At the Health Deputy meeting on February 15, 2006, the Department proposed an alternative of extending the existing agreement with AHF for six months, while moving ahead with the Wells House contract. However, based on additional analyses done by OAPP medical and program staff, the department believes that the services such as intravenous therapy cited by AHF are part of the expected services provided to skilled nursing patients and we do not think a separate category or higher rate are justified.

In addition, County Counsel indicated that it does not recommend an extension of the AHF agreement (except a close-out amendment) while proceeding with a contract with Wells House based on the RFP, because it believes that the RFP should control the terms for contracts with both providers.

Thus, the department recommends proceeding with the recommendations emanating from the RFP, as outlined above.

If you have any questions or need additional information, please let either of us know.

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c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors